



## Ohio Administrative Code

### Rule 173-39-02.1 ODA provider certification: adult day service.

Effective: January 10, 2021

(A) "Adult day service" ("ADS") means a regularly-scheduled service delivered at an ADS center, which is a non-institutional, community-based setting. ADS includes recreational and educational programming to support an individual's health and independence goals; at least one meal, but no more than two meals per day; and, sometimes, health status monitoring, skilled therapy services, and transportation to and from the ADS center. Table 1 to this rule defines the levels and activities of ADS.

	ENHANCED ADS	INTENSIVE ADS
Structured activity programming	Yes	Yes
Health assessments	Yes	Yes
Supervision of ADLs	All ADLs	All ADLs
Hands-on assistance with ADLs	Yes, one or more ADL (bathing excluded)	Yes, minimum of two ADLs (bathing included)
Hands-on assistance with medication administration	Yes	Yes
Comprehensive therapeutic activities	Yes	Yes
Monitoring of health status	Intermittent	Regular, with intervention
Hands-on assistance with personal hygiene activities	Yes	Yes
Social work services	No	Yes
Skilled nursing services and rehabilitative nursing services	No	Yes
Rehabilitative and restorative services	No	Yes

"Adult day service" also includes ADS activities provided to the individual in the individual's home in person, by telephone, by video conference, or by a combination of in person, telephone, or video conference. Table 2 to this rule defines which individuals are eligible to receive ADS activities in their homes, which ADS activities are allowable in their homes, and the allowable duration or frequency of allowable ADS activities in their homes.



	ADS ACTIVITIES PROVIDED IN PERSON IN THE INDIVIDUAL'S HOME	ADS ACTIVITIES PROVIDED BY TELEPHONE OR VIDEO CONFERENCE TO THE INDIVIDUAL'S HOME
Allowable ADS activities in the individual's home	ADS activities addressing the individual's ADS and IADL needs. No authorization for any ADS activities in the individual's home on the same day that the individual receives personal care. No authorization for meals through ADS if the individual receives home-delivered meals.	Regular monitoring of health status with intervention and documentation/referrals in the intensive ADS level. No authorization for any ADS activities in the individual's home on the same day that the individual receives personal care.
Duration/frequency of allowable ADS activities in the individual's home	Authorization is possible for a half or full day of ADS activities if authorized in the individual's person-centered services plan.	Authorization is possible for a minimum of two episodes of allowable ADS activities per week, but no more than one episode of allowable ADS activities per day.

(B) Every ODA-certified provider of ADS shall comply with the following requirements:

(1) General requirements: The provider shall comply with the requirements for every ODA-certified provider in rule 173-39-02 of the Administrative Code.

(2) Service requirements:

(a) Transportation: The provider shall transport each individual to and from the ADS center by performing transportation complying with rule 173-39-02.13 of the Administrative Code, unless the provider subcontracts with another provider complying with rule 173-39-02.13 of the Administrative Code, or unless the caregiver provides or designates another person or non-provider, other than the ADS center provider, to transport the individual to and from the ADS center.

(b) Case manager's assessment:

(i) The case manager shall assess each individual's needs and preferences then specify which service level will be approved for each individual.

(ii) The provider shall retain records to show that it provides the service at the level that the case manager authorized.



(c) Provider's initial assessment:

(i) The provider shall assess the individual before the end of the individual's second day of attendance at the center. The provider may substitute a copy of the case manager's assessment of the individual if the case manager assessed the individual no more than thirty days before the individual's first day of attendance at the center.

(ii) The initial assessment shall include both of the following components:

(a) Functional and cognitive profiles that identify the ADLs and IADLs that require the attention or assistance of ADS center staff.

(b) A social profile including social activity patterns, major life events, community services, caregiver data, formal and informal support systems, and behavior patterns.

(d) Health assessment: No later than thirty days after the individual's initial attendance at the ADS center or before the individual receives the first ten units of service at the ADS center, whichever comes first, the provider shall either obtain a health assessment of each individual from a licensed healthcare professional whose scope of practice includes health assessments or shall require a staff member who is such a licensed healthcare professional to perform a health assessment of each individual. The health assessment shall include the individual's psychosocial profile and shall identify the individual's risk factors, diet, and medications. If the licensed healthcare professional who performs the health assessment is not a staff member of the provider, the provider shall retain a record of the professional's name and phone number.

(e) Activity plan: No later than thirty days after the individual's initial attendance at the ADS center or before the individual receives the first ten units of service at the ADS center, whichever comes first, the provider shall either obtain the services of a licensed healthcare professional whose scope of practice includes developing activity plans to draft an activity plan for each individual or the provider shall require a staff member who is such a licensed healthcare professional to draft an activity plan for each individual. The plan shall identify the individual's strengths, needs, problems or difficulties, goals, and objectives. The plan shall describe the individual's:



- (i) Interests, preferences, and social rehabilitative needs;
- (ii) Health needs;
- (iii) Specific goals, objectives, and planned interventions of ADS services that meet the goals;
- (iv) Level of involvement in the drafting of the plan, and, if the individual has a caregiver, the caregiver's level of involvement in the drafting of the plan; and,
- (v) Ability to sign his or her signature versus alternate means for the individual's signature.
- (f) Plan of treatment: Before administering medication or meals with a therapeutic diet, and before providing a nursing service, nutrition consultation, physical therapy, or speech therapy, the provider shall obtain a plan of treatment from a licensed healthcare professional whose scope of practice includes making plans of treatment. The provider shall obtain the plan of treatment at least every ninety days for each individual that receives medication, a nursing service, nutrition consultation, physical therapy, or speech therapy. For diet orders that may be part of a plan of treatment, a new diet order is not required every ninety days. Instead, the provider shall comply with the diet-order requirements for therapeutic diets under rule 5160-44-11 of the Administrative Code.
- (g) Interdisciplinary care conference:
  - (i) Frequency: The provider shall conduct an interdisciplinary care conference for each individual at least once every six months.
  - (ii) Participants: The provider shall conduct the conference between the provider's staff members and invitees who choose to participate. The provider shall invite the case manager to participate in the conference. The provider shall invite any licensed healthcare professional who does not work for the provider, but who provided the provider with a health assessment of the individual or an activity plan for the individual, to participate in the conference. If the individual has a caregiver, the provider shall invite the caregiver to the conference. The provider shall also invite the individual to the conference. The provider shall invite the case manager, licensed healthcare professional,



caregiver, or individual by providing the date and time to the case manager seven days before the conference begins.

(iii) Revise activity plan: If the conference participants identify changes in the individual's health needs, condition, preferences, or responses to the service, the provider shall obtain the services of a licensed healthcare professional whose scope of practice includes developing activity plans to revise the activity plan accordingly or shall require a staff member who is such a licensed healthcare professional to revise the activity plan accordingly.

(iv) Records: The provider shall retain records on each conference's determinations.

(h) Activities: The provider shall post daily and monthly planned activities in prominent locations throughout the center.

(i) Lunch and snacks:

(i) The provider shall provide lunch and snacks to each individual who is present during lunchtime or snack time.

(ii) Each meal the provider provides shall comply with all the requirements for home-delivered meals under rules 173-39-02.14 and 5160-44-11 of the Administrative Code, except for the requirements in those rules pertaining to the delivery of the meal.

(3) Center requirements:

(a) Specifications: Only a provider providing ADS center with the following specifications qualifies for certification by ODA:

(i) If the center is housed in a building with other services or programs other than ADS, the provider uses a separate, identifiable space and staff for ADS during all hours that the provider provides ADS in the center.

(ii) The center complies with the "ADA Accessibility Guidelines for Buildings and Facilities" in



Appendix A to 28 C.F.R. Part 36.

(iii) The center has at least sixty square feet per individual that it serves (not just individuals who are enrolled in an ODA-administered program), excluding hallways, offices, rest rooms, and storage areas.

(iv) The provider stores individuals' medications in a locked area the provider maintains at a temperature complying with the storage requirements of the medications.

(v) The provider stores toxic substances in an area which is inaccessible to individuals.

(vi) The center has at least one working toilet for every ten individuals present that the center serves (not just individuals who are enrolled in an ODA-administered program) and at least one wheelchair-accessible toilet.

(vii) If the center seeks certification to provide intensive ADS, the center has bathing facilities suitable to the needs of individuals who require intensive ADS.

(b) Emergency safety plan:

(i) The provider shall develop and annually review a fire inspection and emergency safety plan.

(ii) The provider shall post evacuation procedures in prominent areas throughout the center.

(c) Evacuation drills:

(i) At least quarterly, the provider shall conduct an evacuation drill from the center while individuals are present.

(ii) The provider shall retain records on the date and time it completes each evacuation drill.

(d) Fire extinguishers and smoke alarms:



(i) The provider shall have fire extinguishers and smoke alarms in the center and shall routinely maintain them.

(ii) At least annually, the provider shall inspect the fire extinguishers and smoke alarms. The provider shall retain records on the date and time it completes each inspection.

(4) Staffing levels:

(a) The provider shall have at least two staff members present whenever more than one individual is present, including one who is a paid staff member who provides hands-on activities and one who is certified in CPR.

(b) The provider shall maintain a staff-to-individual ratio of at least one staff member to six individuals at all times.

(c) The provider shall have a RN, or LPN under the direction of a RN, available to provide nursing services that require the skills of a RN, or LPN under the direction of a RN, and that are based on the needs of the individuals and within the nurse's scope of practice.

(d) The provider shall employ an activity director to direct activities.

(5) Provider qualifications:

(a) Type of provider:

(i) A provider shall only provide the service if ODA certifies the provider as an agency provider.

(ii) For each provider that ODA certifies, ODA shall certify the provider as an enhanced or intensive provider. If ODA certifies a provider to provide an intensive service level, the provider may also directly provide, or arrange for, the enhanced service level.

(b) Staff qualifications:



(i) Every RN, LPN under the direction of a RN, social worker, physical therapist, physical therapy assistant, speech therapist, licensed dietitian, occupational therapist, occupational therapy assistant, or other licensed professional planning to practice in the adult day center, shall possess a current, valid license to practice in their profession.

(ii) Each activity director shall possess at least one of the following:

(a) A baccalaureate or associate degree in recreational therapy or a related degree.

(b) At least two years of experience as an activity director, activity coordinator, or a related position.

(c) Compliance with the qualifications under rule 3701-17-07 of the Administrative Code for directing resident activities in a nursing facility.

(d) A certification from the national certification council for activity professionals (NCCAP).

(iii) Each activity assistant shall possess at least one of the following:

(a) A high school diploma.

(b) A high school equivalence diploma as defined in section 5107.40 of the Revised Code.

(c) At least two years of employment in a supervised position to provide personal care, to provide activities, or to assist with activities.

(iv) Each staff member who provides hands-on activities shall possess at least one of the following:

(a) A high school diploma.

(b) A high school equivalence diploma as defined in section 5107.40 of the Revised Code.

(c) At least two years of employment in a supervised position to provide personal care, to provide activities, or to assist with activities.





- (d) The successfully completion of a vocational program in a health or human services field.
  - (v) Each staff member who provides transportation to individuals shall comply with all requirements under rule 173-39-02.13 of the Administrative Code.
  - (vi) The provider shall retain records to show that each staff member who has in-person interaction with individuals complies with paragraph (B)(4)(b) of this rule.
- (c) Staff training:
- (i) Orientation: Before each new personal care staff member provides ADS, the provider shall train the staff member on all of the following:
    - (a) The expectation of employees;
    - (b) The provider's ethical standards, as required under rule 173-39-02 of the Administrative Code;
    - (c) An overview of the provider's personnel policies;
    - (d) A description of the provider's organization and lines of communication;
    - (e) Incident reporting procedures; and,
    - (f) Universal precautions for infection control.
  - (ii) Task-based training: Before each new personal care staff member provides ADS, the provider shall provide task-based training.
  - (iii) Continuing education and in-service training: Each staff member shall participate in at least eight hours of continuing education or in-service training on appropriate topics each calendar year, unless the staff person holds a professional certification requiring at least eight hours of continuing education or in-service training each calendar year to maintain their license, certification, or



registration.

(iv) Records: The provider shall retain records showing the provider complies with the training requirements under paragraph (B)(5)(c) of this rule. In doing so, the provider shall list the instructor's title, qualifications, and signature; date and time of instruction; content of the instruction; and name and signature of ADS personal care staff completing the training.

(d) Performance reviews:

(i) The provider shall complete a performance review of each staff member in relation to the staff member's job description.

(ii) The provider shall retain records to show that it complies with paragraph (B)(4)(d)(i) of this rule.

(6) Service verification: By one of the following two methods, the provider shall verify that each ADS session for which it bills was provided:

(a) The provider may use an electronic system if the system does all of the following:

(i) Collects the individual's name, date of service, arrival and departure times (if provided the service is provided in the ADS center), mode of transportation, and a unique identifier of the individual.

(ii) Completes form ODA1200 for any allowable ADS activities (described in Table 2 to this rule) provided in-person in the individual's home or by telephone or video conference to the individual's home. As used in this paragraph, "form ODA1200" means "Form ODA1200 'Adult Day Service: In-Home and Telephonic Service Checklist' (July 10, 2020)."

(iii) Retains the information it collects.

(iv) Produces reports, upon request, that ODA or its designee can monitor for compliance.



(b) The provider may use a manual system, including a daily-attendance roster (if the service is provided in the ADS center) if the provider's system meets all the requirements under paragraph (B)(6)(a) of this rule.

(C) Units and rates:

(1) Attendance:

(a) Units of ADS attendance are calculated as follows:

(i) One-half unit is less than four hours ADS per day.

(ii) One unit is four through eight hours ADS per day.

(iii) A fifteen-minute unit is each fifteen-minute period of time over eight hours up to, and including, a maximum of twelve hours of ADS per day.

(b) A unit of ADS attendance does not include transportation time.

(c) A unit of ADS provided in person in the individual's home is limited to one-half unit or one unit.

(d) A unit of ADS provided by telephone or video conference to the individual's home is allowable for a minimum of two episodes of allowable ADS activities per week, but no more than one episode of allowable ADS activities per day.

(2) Transportation: A unit of ADS transportation is a round trip, a one-way trip, or one mile with the trip cost based on a case manager's pre-determined calculation of distance between the individual's home and the ADS center multiplied by an established ADS mileage rate. If the provider provides the transportation simultaneously to more than one PASSPORT-enrolled individual who resides in the same household in the same vehicle to the same destination, the provider's payment rate for that trip is seventy-five per cent of the per-unit rate, in accordance with rule 5160-31-07 of the Administrative Code.



(3) The appendix to rule 5160-1-06.1 of the Administrative Code establishes the maximum rates allowable for units of ADS attendance and ADS transportation.

(4) The rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.